AMENDED IN SENATE APRIL 24, 2003

SENATE BILL No. 593

Introduced by Senator Ackerman

February 20, 2003

An act to ~~add Sections 100.51 and 721.51 to~~ *amend Sections 401.15, 755, 756, and 1153 of, to amend, repeal, and add Sections 1152 and 1155 of, and to add Sections 100.51, 721.51, and 828.1 to,* the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

SB 593, as amended, Ackerman. Property taxation: state assessment: commercial air ~~operator~~ *carrier* personal property.

The California Constitution requires the State Board of Equalization to assess specified properties owned by specified entities. Existing property tax law provides for the valuation of properties of a state assessee that owns property in more than one county. *Existing law requires, upon a request by the board, that a state assessee submit a property statement, as provided, to the board pertaining to the property owned by the assessee.* Existing law also provides, pursuant to specified formulas, for the application in each county of specified tax rates to the allocated assessed value of a state assessee's property, and for the allocation among jurisdictions in that county of the resulting revenues.

This bill would, commencing with the lien date for the ~~2004–05~~ *2005–06* fiscal year, require the board to assess*, and audit the assessments, of* taxable personal property that is owned by a commercial air ~~operator~~ *carrier*, as defined. *This bill would also require the board to notify county assessors, as specified, if a commercial air carrier's taxable personal property includes fixtures that are to be locally assessed as real property.* This bill would also require that the revenues derived from the assessment of this property be allocated in the same percentage shares as revenues derived from locally assessed property among the jurisdictions in which the property is located.

Existing law establishes the State-County Property Tax Administration Grant Program which, for the 2002–03 fiscal year to the 2006–07 fiscal year, inclusive, provides grants, upon an appropriation by the Legislature in the annual Budget Act, to electing counties to assist them in funding property tax administration costs. This program sets forth a grant amount for each county in a specified schedule.

This bill would require the Department of Finance to make appropriate adjustments to the funding available to counties under this program to provide the board with revenues to administer the bill's provisions.

Existing property tax law provides that for specified fiscal years, ending in the 2003–04 fiscal year, the valuation of certificated aircraft of an airline company that executed a written settlement agreement or waiver with a county is deemed to be the amount entered on the tax roll.

This bill would extend this provision to the 2004–05 fiscal year.

This bill would also make conforming changes to existing law.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 100.51 is added to the Revenue and Taxation Code, to read:

100.51. Notwithstanding any other provision of law, for the ~~2004–05~~ *2005–06* fiscal year and each fiscal year thereafter, all of the following apply:

(a) The property tax assessed value of taxable personal property that is owned by a commercial air ~~operator~~ *carrier*, as defined in ~~Section 5500 of the Public Utilities Code,~~ *Section 721.51*, and that is assessed by the State Board of Equalization, shall be allocated entirely to that tax rate area in the county in which the property is located.

(b) The tax rate applied to the assessed value allocated pursuant to subdivision (a) shall be the rate calculated pursuant to Section 93.

(c) The revenues derived from the application of the tax rate to the assessed value allocated to a tax rate area pursuant to subdivision (a) shall be allocated among the jurisdictions in that tax rate area, in those same percentage shares that property tax revenues derived from locally assessed property are allocated to those jurisdictions in that tax rate area, subject to any allocation and payment of funds as provided in subdivision (b) of Section 33670 of the Health and Safety Code, and subject to any modifications or adjustments pursuant to Sections 99 and 99.2.

SEC. 2. *Section 401.15 of the Revenue and Taxation Code is amended to read:*

401.15. (a) Notwithstanding any other provision of law, for any county that makes available the credits provided for in Section 5096.3, the full cash values of certificated aircraft for fiscal years to the 1997–98 fiscal year, inclusive, are presumed to be those values enrolled by the county assessor or, in the case of timely escape assessments upon certificated aircraft issued on or after April 1, 1998, pursuant to Sections 531, 531.3, and 531.4, the values enrolled upon those escape assessments, provided that the escape assessment is made in accordance with the methodology in subdivision (b). For escape assessments for fiscal years to the 1997–98 fiscal year, inclusive, the assessor shall use the methodology and minimum and market values set by the California Assessors' Association for the applicable fiscal year in lieu of the methodology set forth in subparagraph (C) or (D) of paragraph (1) of subdivision (b). The assessor is not required to revise or change existing enrolled assessments that are not subject to escape assessment to reflect the methodology in this section. Nothing in this section precludes audit adjustments and offsets as set forth in Section 469 or the correction of reporting errors raised by an airline. Nothing in this section affects any presumption of correctness concerning allocation of aircraft values.

(b) (1) For the 1998–99 fiscal year to the 2002–03 fiscal year, inclusive, and including escape assessments levied on or after April 1, 1998, for any fiscal year to the 2002–03 fiscal year, inclusive, except as otherwise provided in subdivision (a), certificated aircraft shall be presumed to be valued at full market value if all of the following conditions are met:

(A) Except as provided in subparagraph (D), value is derived using original cost. The original cost shall be the greater of the following:

(i) Taxpayer's cost for that individual aircraft reported in accordance with generally accepted accounting principles, so long as that produces net acquisition cost, and to the extent not included in the taxpayer's cost, transportation costs and capitalized interest and the cost of any capital addition or modification made before a transaction described in clause (ii).

(ii) The cost established in a sale/leaseback or assignment of purchase rights transaction for that individual aircraft that transfers the benefits and burdens of ownership to the lessor for United States federal income tax purposes.

If the original cost for leased aircraft cannot be determined from information reasonably available to the taxpayer, original cost may be determined by reference to the ‘‘average new prices’’ column of the Airliner Price Guide for that model, series, and year of manufacture of aircraft. If information is not available in the ‘‘average new prices’’ column for that model, series, and year, the original cost may be determined using the best indicator of original cost plus all conversion costs incurred for that aircraft. In the event of a merger, bankruptcy, or change in accounting methods by the reporting airline, there shall be a rebuttable presumption that the cost of the individual aircraft and the acquisition date reported by the acquired company, if available, or the cost reported prior to the change in accounting method, are the original cost and the applicable acquisition date.

(B) Original cost, plus the cost of any capital additions or modifications not otherwise included in the original cost, shall be adjusted from the date of the acquisition of the aircraft to the lien date using the producer price index for aircraft and a 16-year straight-line percent good table starting from the delivery date of the aircraft to the current owner or, in the case of a sale/leaseback or assignment of purchase rights transaction, as described in this section, the current operator with a minimum combined factor of 25 percent, unless this adjustment results in a value less than the minimum value for that aircraft computed pursuant to subparagraph (C), in which case the minimum value may be used. If original cost is determined by reference to the Airliner Price Guide ‘‘average new prices’’ column, the adjustments required by this paragraph shall be made by setting the acquisition date of the aircraft to be the date of the aircraft's manufacture.

(C) For certificated aircraft of a model and series that has been in revenue service for eight or more years, the minimum value ~~shall~~ *may* not exceed the average of the used aircraft prices shown in columns other than the "average new prices" column for used aircraft of the oldest aircraft for that model and series in the Airliner Price Guide most recently published as of the lien date. Minimum values ~~shall~~ *may* not be utilized for certificated aircraft of a model and series that has been in revenue service for less than eight years.

(D) For out-of-production aircraft that were recommended to be valued by a market approach for 1998 by the California Assessors' Association, assessments will be based at the lower of the following:

(i) The values established by the association for the 1998 lien date.

(ii) The average of the used aircraft prices shown in the columns other than the "average new prices" column for used aircraft of the five oldest years for the aircraft model and series or that lesser time for which data is available in the Airliner Price Guide.

(2) Notwithstanding paragraph (1), in computing assessed value, the assessor may allow for extraordinary obsolescence if supported by market evidence and the taxpayer may challenge the assessment for failure to do so. To constitute market evidence of extraordinary obsolescence and to permit an assessment appeal, the evidence must show that the functional and/or economic obsolescence is in excess of 10 percent of the value for the aircraft model and series otherwise established pursuant to subparagraph (B), (C), or (D) of paragraph (1).

(3) For purposes of paragraph (1), if the Airliner Price Guide ceases to be published or the format significantly changes, a guide or adjustment agreed to by the airlines and the taxing counties shall be substituted.

(c) (1) For the 2003–04 ~~fiscal year,~~ *and 2004–05 fiscal years,* certificated aircraft shall be presumed to be valued at full market value if all of the following conditions are met:

(A) Except as provided in subparagraph (D), value is derived using original cost. The original cost shall be the greater of the following:

(i) Taxpayer's cost for that individual aircraft reported in accordance with generally accepted accounting principles, so long as that produces net acquisition cost, and to the extent not included in the taxpayer's cost, transportation costs and capitalized interest and the cost of any capital addition or modification made before a transaction described in clause (ii).

(ii) Taxpayer's cost as established pursuant to this subdivision plus one-half of the incremental difference between taxpayer's cost and the cost established in a sale/leaseback or assignment of purchase rights transaction for individual aircraft that transfers the benefits and burdens of ownership to the lessor for United States federal income tax purposes.

If the original cost for leased aircraft cannot be determined from information reasonably available to the taxpayer, original cost may be determined by reference to the "average new prices" column of the Airliner Price Guide for that model, series, and year of manufacture of aircraft. If information is not available in the "average new prices" column for that model, series, and year, the original cost may be determined using the best indicator of original cost plus all conversion costs incurred for that aircraft. In the event of a merger, bankruptcy, or change in accounting methods by the reporting airline, there shall be a rebuttable presumption that the cost of the individual aircraft and the acquisition date reported by the acquired company, if available, or the cost reported prior to the change in accounting method, are the original cost and the applicable acquisition date.

(B) Original cost, plus the cost of any capital additions or modifications not otherwise included in original cost, shall be adjusted from the date of the acquisition of the aircraft to the lien date using the producer price index for aircraft and a 16-year straight-line percent good table starting from the delivery date of the aircraft to the current owner or, in the case of a sale/leaseback or assignment of purchase rights transaction, as described in this section, the current operator with a minimum combined factor of 25 percent, unless this adjustment results in a value less than the minimum value for that aircraft computed pursuant to subparagraph (C), in which case the minimum value may be used. If original cost is determined by reference to the Airliner Price Guide "average new prices" column, the adjustments required by this paragraph shall be made by setting the acquisition date of the aircraft to be the date of the aircraft's manufacture.

(C) For certificated aircraft of a model and series that has been in revenue service for eight or more years, the minimum value ~~shall~~ *may* not exceed the average of the used aircraft prices shown in columns other than the ''average new prices'' column for used aircraft of the oldest aircraft for that model and series in the Airliner Price Guide most recently published as of the lien date. Minimum values ~~shall~~ *may* not be utilized for certificated aircraft of a model and series that has been in revenue service for less than eight years.

(D) For out-of-production aircraft that were recommended to be valued by a market approach for 1998 by the California Assessors' Association, their assessments shall be based at the lower of the following:

(i) The values established by the association for the 1998 lien date.

(ii) The average of the used aircraft prices shown in the columns other than the ''average new prices'' column for used aircraft of the five oldest years for the aircraft model and series or that lesser time for which data is available in the Airliner Price Guide.

(2) Notwithstanding paragraph (1), in computing assessed value, the assessor may allow for extraordinary obsolescence if supported by market evidence and the taxpayer may challenge the assessment for failure to do so. To constitute market evidence of extraordinary obsolescence and to permit an assessment appeal, the evidence must show that the functional and or economic obsolescence is in excess of 10 percent of the value for the aircraft model and series otherwise established pursuant to subparagraph (B), (C), or (D) of paragraph (1).

(3) For purposes of paragraph (1), if the Airliner Price Guide ceases to be published or the format significantly changes, a guide or adjustment agreed to by the airlines and the taxing counties shall be substituted.

(d) To calculate the values prescribed in subdivisions (b) and (c), the taxpayer shall, to the extent that information is reasonably available to the taxpayer, furnish the county assessor with an annual property statement that includes the aircraft original costs as defined in subparagraph (A) of paragraph (1) of subdivision (b) or (c). If an air carrier that has this information reasonably available to it fails to report original cost and additions, as required by Sections 441 and 442, an assessor may make an appropriate assessment pursuant to Section 501.

SEC. 3. Section 721.51 is added to the Revenue and Taxation Code, to read:

721.51. *(a)* Notwithstanding any other provision of law, commencing with the lien date for the ~~2004–05 fiscal year, the board shall annually assess all taxable personal property that is owned by a commercial air operator, as defined in Section 5500 of the Public Utilities Code.~~ *2005–06 fiscal year, the board shall annually assess all personal property that is owned, claimed, possessed, used, controlled, or managed by a commercial air carrier as defined in subdivision (b).*

(b) (1) For purposes of this section, "commercial air carrier" means an air carrier or foreign air carrier engaged in air transportation as defined in Section 1150.

(2) Certificated aircraft owned or used by a commercial air carrier shall be assessed in a manner consistent with the procedures set forth in Article 6 (commencing with Section 1150) of Chapter 5 of Part 2 that determines the extent that the certificated aircraft is physically present in each county within this state.

(c) The board may audit a commercial air carrier as otherwise provided by law.

(d) The Department of Finance shall make appropriate adjustments to the State-County Property Tax Administration Grant Program to provide the board with the revenues necessary for the board to administer this section.

SEC. 4. Section 755 of the Revenue and Taxation Code is amended to read:

755. (a) On or before July 15, the board shall transmit to each county auditor an estimate of the total unitary value and operating nonunitary value of state-assessed property in the county and of nonunitary state-assessed property in each revenue district in the county. An estimate need not be made for a revenue district that did not levy a tax or assessment during the preceding year unless the board receives on or before January 1 preceding the fiscal year for which the levy is to be made a notice in writing of the proposed levy. The estimate shall be regarded as establishing the total

assessed value of state-assessed property in the county and each revenue district in the county for the purpose of determining tax rates, subject only to those changes as may be transmitted on or prior to July 31. All information furnished pursuant to this section is at all times during office hours open to inspection by any interested person or entity.

(b) Notwithstanding subdivision (a), in making the estimate referred to in subdivision (a), the unitary value and nonunitary value of the property of regulated railway companies and property subject to subdivisions (i), (j), and (k) of Section 100*, Section 100.9, or Section 100.51* shall be allocated by revenue district.

SEC. 5. Section 756 of the Revenue and Taxation Code is amended to read:

756. (a) On or before July 31, the board shall transmit to each county auditor a roll showing the unitary and operating nonunitary assessments made by the board in the county and the nonoperating nonunitary assessments made by the board in each city and revenue district in the county; provided, however, that the roll need not show the assessments made by the board in a revenue district ~~which~~ *that* did not levy a tax or assessment during the preceding year. The roll is at all times, during office hours, open to the inspection of any person representing any taxing agency or revenue district, or any district described in Section 2131. If the roll does not show the assessments in a revenue district as herein provided and a notice of a proposed levy is furnished the board in writing, on or before January 1 preceding the fiscal year for which the levy is to be made, the board shall furnish an estimate of the total assessed value of nonoperating nonunitary state-assessed property in the district and shall transmit thereafter to the county auditor a statement of roll change showing the nonoperating nonunitary assessments made by the board in the district.

(b) Notwithstanding subdivision (a), in making the roll referred to in subdivision (a), the unitary value and nonunitary value of the property of regulated railway companies and property subject to subdivisions (i), (j), and (k) of Section 100*, Section 100.9, or Section 100.51* shall be enrolled by revenue district.

SEC. 6. Section 828.1 is added to the Revenue and Taxation Code, to read:

828.1. (a) All of the following apply to a property statement submitted by a commercial air carrier:

(1) Personal property located in this state, other than certificated aircraft, shall be reported by reference to the tax rate area in order to allocate assessed value by tax rate area as required by Section 100.51.

(2) Information related to certificated aircraft that normally make physical contact in counties shall be reported in the form prescribed by the board.

(b) If a commercial air carrier's property statement includes fixtures that are to be locally assessed as fixtures, the board shall provide information regarding the fixtures to the county assessor for the county in which the fixtures are located.

SEC. 7. Section 1152 of the Revenue and Taxation Code is amended to read:

1152. The allocation formula to be used by each assessor is as follows:

(a) The time in state factor is the proportionate amount of time, both in the air and on the ground, that certificated aircraft have spent within the state during a representative period as compared to the total time in the representative period. For purposes of this subdivision, all time, both in the air and on the ground, that certificated aircraft have spent within the state prior to the aircraft's first entry into the revenue service of the air carrier in control of the aircraft on the current lien date shall be excluded from the time in state factor. This factor shall be multiplied by 75 percent.

(b) The arrivals and departures factor is the proportionate number of arrivals in and departures from airports within the state of certificated aircraft during a representative period as compared to the total number of arrivals in and departures from airports during the representative period. This factor shall be multiplied by 25 percent.

(c) For the 1983–84 fiscal year and fiscal years thereafter, in computing the time-in-state factor, on each occasion during the representative period that a certificated aircraft has spent 720 or more consecutive hours on the ground, all ground time in excess of 168 hours shall be excluded from the time in state attributable to that aircraft.

(d) The time-in-state factor shall be added to the arrivals and departures factor.

(e) The figure produced by application of subdivision (d) equals the allocation to be applied to full cash value to determine the value to which the assessment ratio shall be applied.

(f) This section shall remain in effect only until January 1, 2005, and as of that date is repealed.

SEC. 8. Section 1152 is added to the Revenue and Taxation Code, to read:

1152. The allocation formula to be used by the board is as follows:

(a) The time in state factor is the proportionate amount of time, both in the air and on the ground, that certificated aircraft have spent within the state during a representative period as compared to the total time in the representative period. For purposes of this subdivision, all time, both in the air and on the ground, that certificated aircraft have spent within the state prior to the aircraft's first entry into the revenue service of the air carrier in control of the aircraft on the current lien date shall be excluded from the time in state factor. This factor shall be multiplied by 75 percent.

(b) The arrivals and departures factor is the proportionate number of arrivals in and departures from airports within the state of certificated aircraft during a representative period as compared to the total number of arrivals in and departures from airports during the representative period. This factor shall be multiplied by 25 percent.

(c) For the 2005–06 fiscal year and fiscal years thereafter, in computing the time-in-state factor, on each occasion during the representative period that a certificated aircraft has spent 720 or more consecutive hours on the ground, all ground time in excess of 168 hours shall be excluded from the time in state attributable to that aircraft.

(d) The time-in-state factor shall be added to the arrivals and departures factor.

(e) The figure produced by application of subdivision (d) equals the allocation to be applied to full cash value to determine the value to which the assessment ratio shall be applied.

(f) This section shall become operative on January 1, 2005.

SEC. 9. Section 1153 of the Revenue and Taxation Code is amended to read:

1153. After consulting with the assessors of the counties in which aircraft of an air carrier normally make physical contact, the board shall designate for each assessment year the representative period to be used ~~by the assessors~~ in assessing the aircraft of the carrier.

SEC. 10. Section 1155 of the Revenue and Taxation Code is amended to read:

1155. For purposes of Section 404, certificated aircraft shall be deemed to be situated only in those taxing agencies in which the aircraft normally make physical contact with sufficient regularity to entitle ~~such~~ *the* agencies to tax the aircraft under the laws and Constitution of the United States. Flight time within the state shall be allocated as follows:

(a) If the aircraft takes off in one taxing agency ~~which~~ *that* is entitled to tax (within the meaning of the preceding sentence) and lands in another agency ~~which~~ *that* is entitled to tax, the flight time between ~~such~~ *the two* taxing agencies shall be allocated one-half to each ~~such~~ agency.

(b) If the aircraft arrives from out of state or leaves the state, the flight time from or to the state boundary shall be allocated to the taxing agency entitled to tax in which the aircraft first lands or last takes off, as the case may be.

(c) This section shall remain in effect only until January 1, 2005, and as of that date is repealed.

SEC. 11. Section 1155 is added to the Revenue and Taxation Code, to read:

1155. For purposes of Section 100.51, certificated aircraft shall be deemed to be situated only in those tax rate areas in which the aircraft normally make physical contact with sufficient regularity to entitle that tax rate area to the assessed value of the aircraft under the laws and Constitution of the United States. Flight time within the state shall be allocated as follows:

(a) If the aircraft takes off in one tax rate area that is entitled to the assessed value of the aircraft and lands in another tax rate area that is entitled to the assessed value of the aircraft, the flight time between the two tax rate areas shall be allocated one-half to each of the two tax rate areas.

(b) If the aircraft arrives from out of state or leaves the state, the flight time from or to the state boundary shall be allocated to

the tax rate area entitled to the assessed value of the aircraft in which the aircraft first lands or last takes off, as the case may be.

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